

# **EXHIBIT D**

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 FEDERAL TRADE COMMISSION, et )  
4 al., )

5 Plaintiffs, )

6 v. )

7 THE KROGER COMPANY and )  
8 ALBERTSONS COMPANIES, INC., )

9 Defendants. )

Case No. 3:24-cv-00347-AN

August 26, 2024

Portland, Oregon

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14 PRELIMINARY INJUNCTION HEARING

15 DAY 1 - MORNING SESSION

16 TRANSCRIPT OF PROCEEDINGS

17 BEFORE THE HONORABLE ADRIENNE NELSON

18 UNITED STATES DISTRICT COURT JUDGE  
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1 Americans to put food on the table. In thousands of  
2 communities across the country, Americans currently turn to  
3 supermarkets run by Kroger and Albertsons, such as Kroger's  
4 Fred Meyer or Albertsons Safeway stores here in Portland, to  
5 get groceries for the week.

6 Kroger and Albertsons, in turn, compete to increase  
7 foot traffic and the amount shoppers purchase at their  
8 stores. They do this by enticing shoppers through lower  
9 prices, promotion, increasing selection, and creating an  
10 overall more enticing shopping experience.

11 American families, in turn, benefit by reaping the  
12 fruits of this competition, by receiving better groceries  
13 for less.

14 To serve their shoppers, Kroger and Albertsons employ  
15 over 710,000 employees across the country. Many of these  
16 employees are union workers. Currently, workers across the  
17 country benefit from being able to leverage Kroger and  
18 Albertsons' competition against each other when coming to  
19 the bargaining table to get better benefits and wages for  
20 workers.

21 Kroger has now entered into a \$25 billion deal to  
22 purchase Albertsons. This is the largest American grocery  
23 acquisition in history. This multibillion-dollar deal would  
24 result in Kroger swallowing Albertsons and would eliminate  
25 the competition between these two companies that shoppers

1 and union workers depend on in one fell swoop.

2 The FTC is joined by its co-plaintiff states: Arizona,  
3 California, the District of Columbia, Illinois, Maryland,  
4 Nevada, New Mexico, Oregon, and Wyoming, in seeking to block  
5 this transaction.

6 Colorado and Washington have filed separate lawsuits in  
7 their own respective state courts, similarly seeking to  
8 block this deal.

9 This lawsuit is part of an effort aimed at helping  
10 Americans feed their families. Stopping this  
11 multibillion-dollar deal will keep in place the vigorous  
12 competition that acts as a check on rising grocery prices  
13 and spurs improvements in quality and innovation.

14 But plaintiffs are not asking this Court to stop the  
15 transaction. That is an issue that will be resolved in the  
16 related administrative proceeding, which is where the full  
17 merits adjudication is happening.

18 Rather, plaintiffs are here today, in this proceeding,  
19 to simply ask this Court to push pause on the transaction  
20 and to prevent the defendants from closing the deal during  
21 the time the FTC will meet -- will need to complete the  
22 merits proceeding that it has asked to begin on October 1st.

23 To meet our burden here in this proceeding, plaintiffs  
24 need only raise serious and substantial questions justifying  
25 a full inquiry in the merits.

1           To meet that burden, plaintiffs will raise serious and  
2 substantial questions in two ways: The first is by  
3 producing evidence showing harm in thousands of local  
4 supermarket product markets accounting for over \$70 billion  
5 in sales; second, by producing evidence of harm in dozens of  
6 markets for union grocery workers.

7           Defendants will not be able to meet their burden to  
8 rebut this prima facie showing, either by showing evidence  
9 of efficiencies or showing that their fixed -- and facts  
10 fixes the problems with this deal.

11           But taking a step back is helpful to put the scope of  
12 these companies' operations and competition in context. In  
13 preview, some of the evidence this Court will hear.

14           On the screen in front of you and on the left,  
15 demonstrative in front of the Court, shows the dozens of  
16 banners or brands of supermarkets that Kroger and Albertsons  
17 operate across the country.

18           Again, for example, here in Portland, Kroger operates  
19 QFC and Fred Meyer's banners, and Alberts -- Albertsons  
20 operates the Safeway and Albertsons stores. Kroger  
21 acquired -- Kroger and Albertsons both acquired these  
22 banners through a series of acquisitions following a general  
23 trend of consolidation across the supermarket industry.

24           As a result of these acquisitions, these companies  
25 today are two of the largest supermarkets in the country.